

By the Committees on Finance and Tax; and Commerce; and Senators Altman and Crist

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1 A bill to be entitled
2 An act relating to spaceflight; amending s. 14.2015,
3 F.S.; providing for the Office of Tourism, Trade, and
4 Economic Development to administer corporate income
5 tax credits for commercial spaceflight projects;
6 amending s. 213.053, F.S.; authorizing the Department
7 of Revenue to share information relating to corporate
8 income tax credits for commercial spaceflight projects
9 with the Office of Tourism, Trade, and Economic
10 Development; amending s. 220.02, F.S.; revising the
11 order in which credits against the corporate income
12 tax or franchise tax may be taken; amending s. 220.13,
13 F.S.; providing that the amount taken as a credit for
14 a commercial spaceflight project must be added to
15 taxable income; prohibiting a deduction from taxable
16 income for any net operating loss taken as a credit
17 against corporate income taxes or transferred;
18 amending s. 220.16, F.S.; authorizing the amount of
19 payments received in exchange for transferring a
20 certain net operating loss to be allocated to this
21 state; creating s. 220.194, F.S.; providing
22 legislative intent; defining terms; authorizing
23 nontransferable corporate income tax credits,
24 transferable net operating loss tax credits, and
25 machinery and equipment tax credits for certified
26 commercial spaceflight businesses engaged in
27 commercial spaceflight projects; specifying tax credit
28 amounts and eligibility criteria; requiring that a
29 business demonstrate eligibility to claim a tax credit

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30 to the satisfaction of the Office of Tourism, Trade,
31 and Economic Development and the Department of
32 Revenue; requiring a business to submit an application
33 to the Office of Tourism, Trade, and Economic
34 Development for approval to earn credits; specifying
35 the required contents of an application; requiring the
36 Office of Tourism, Trade, and Economic Development to
37 approve or deny an application within 60 days after
38 receipt; requiring that a business apply to be
39 certified by the Office of Tourism, Trade, and
40 Economic Development in order to take or transfer a
41 credit; requiring the Office of Tourism, Trade, and
42 Economic Development to recommend approval or denial
43 of an application for certification within 60 days
44 after receipt; specifying the required contents of an
45 application for certification; requiring the executive
46 director of the Office of Tourism, Trade, and Economic
47 Development to approve or deny the application for
48 certification within 30 days after receiving the
49 recommendation for approval or denial; requiring that
50 the Office of Tourism, Trade, and Economic Development
51 submit a copy of a certification for tax credits to
52 the Department of Revenue; providing procedures to
53 transfer a tax credit; authorizing the Department of
54 Revenue to perform audits and investigations necessary
55 to verify the accuracy of returns; authorizing the
56 Office of Tourism, Trade, and Economic Development to
57 revoke or modify a certification granting eligibility
58 for tax credits under certain circumstances; requiring

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59 a certified commercial spaceflight business to pay any
60 required tax within 60 days after receiving notice
61 that previously approved tax credits have been revoked
62 or modified; authorizing the Department of Revenue to
63 assess additional taxes, interest, or penalties;
64 authorizing the Office of Tourism, Trade, and Economic
65 Development to adopt rules; requiring the Office of
66 Tourism, Trade, and Economic Development to submit an
67 annual report to the Governor, the President of the
68 Senate, and the Speaker of the House of
69 Representatives on the activities of the commercial
70 launch zone incentive program; providing for
71 application; providing an effective date.

72
73 Be It Enacted by the Legislature of the State of Florida:

74
75 Section 1. Paragraph (f) of subsection (2) of section
76 14.2015, Florida Statutes, is amended to read:

77 14.2015 Office of Tourism, Trade, and Economic Development;
78 creation; powers and duties.—

79 (2) The purpose of the Office of Tourism, Trade, and
80 Economic Development is to assist the Governor in working with
81 the Legislature, state agencies, business leaders, and economic
82 development professionals to formulate and implement coherent
83 and consistent policies and strategies designed to provide
84 economic opportunities for all Floridians. To accomplish such
85 purposes, the Office of Tourism, Trade, and Economic Development
86 shall:

87 (f)1. Administer the Florida Enterprise Zone Act under ss.

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88 290.001-290.016, the community contribution tax credit program
89 under ss. 220.183 and 624.5105, the tax refund program for
90 qualified target industry businesses under s. 288.106, the tax-
91 refund program for qualified defense contractors and space
92 flight business contractors under s. 288.1045, contracts for
93 transportation projects under s. 288.063, the sports franchise
94 facility program under s. 288.1162, the professional golf hall
95 of fame facility program under s. 288.1168, the expedited
96 permitting process under s. 403.973, the Rural Community
97 Development Revolving Loan Fund under s. 288.065, the Regional
98 Rural Development Grants Program under s. 288.018, the Certified
99 Capital Company Act under s. 288.99, the Florida State Rural
100 Development Council, the Rural Economic Development Initiative,
101 the corporate income tax credits for commercial spaceflight
102 projects under s. 220.194, and other programs that are
103 specifically assigned to the office by law, by the
104 appropriations process, or by the Governor. Notwithstanding any
105 other provisions of law, the office may expend interest earned
106 from the investment of program funds deposited in the Grants and
107 Donations Trust Fund to contract for the administration of the
108 programs, or portions of the programs, enumerated in this
109 paragraph or assigned to the office by law, by the
110 appropriations process, or by the Governor. Such expenditures
111 shall be subject to review under chapter 216.

112 2. The office may enter into contracts in connection with
113 the fulfillment of its duties concerning the Florida First
114 Business Bond Pool under chapter 159, tax incentives under
115 chapters 212 and 220, tax incentives under the Certified Capital
116 Company Act in chapter 288, foreign offices under chapter 288,

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117 the Enterprise Zone program under chapter 290, the Seaport
118 Employment Training program under chapter 311, the Florida
119 Professional Sports Team License Plates under chapter 320,
120 Spaceport Florida under chapter 331, Expedited Permitting under
121 chapter 403, and in carrying out other functions that are
122 specifically assigned to the office by law, by the
123 appropriations process, or by the Governor.

124 Section 2. Paragraph (z) is added to subsection (8) of
125 section 213.053, Florida Statutes, to read:

126 213.053 Confidentiality and information sharing.—

127 (8) Notwithstanding any other provision of this section,
128 the department may provide:

129 (z) Information relative to tax credits taken under s.
130 220.194 to the Office of Tourism, Trade, and Economic
131 Development or to Space Florida.

132
133 Disclosure of information under this subsection shall be
134 pursuant to a written agreement between the executive director
135 and the agency. Such agencies, governmental or nongovernmental,
136 shall be bound by the same requirements of confidentiality as
137 the Department of Revenue. Breach of confidentiality is a
138 misdemeanor of the first degree, punishable as provided by s.
139 775.082 or s. 775.083.

140 Section 3. Subsection (8) of section 220.02, Florida
141 Statutes, is amended to read:

142 220.02 Legislative intent.—

143 (8) It is the intent of the Legislature that credits
144 against either the corporate income tax or the franchise tax be
145 applied in the following order: those enumerated in s. 631.828,

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146 those enumerated in s. 220.191, those enumerated in s. 220.181,
147 those enumerated in s. 220.183, those enumerated in s. 220.182,
148 those enumerated in s. 220.1895, those enumerated in s. 221.02,
149 those enumerated in s. 220.184, those enumerated in s. 220.186,
150 those enumerated in s. 220.1845, those enumerated in s. 220.19,
151 those enumerated in s. 220.185, those enumerated in s. 220.187,
152 those enumerated in s. 220.192, those enumerated in s. 220.193,
153 ~~and~~ those enumerated in s. 288.9916, and those enumerated in s.
154 220.194.

155 Section 4. Paragraphs (a) and (b) of subsection (1) of
156 section 220.13, Florida Statutes, are amended to read:

157 220.13 "Adjusted federal income" defined.—

158 (1) The term "adjusted federal income" means an amount
159 equal to the taxpayer's taxable income as defined in subsection
160 (2), or such taxable income of more than one taxpayer as
161 provided in s. 220.131, for the taxable year, adjusted as
162 follows:

163 (a) *Additions.*—There shall be added to such taxable income:

164 1. The amount of any tax upon or measured by income,
165 excluding taxes based on gross receipts or revenues, paid or
166 accrued as a liability to the District of Columbia or any state
167 of the United States which is deductible from gross income in
168 the computation of taxable income for the taxable year.

169 2. The amount of interest which is excluded from taxable
170 income under s. 103(a) of the Internal Revenue Code or any other
171 federal law, less the associated expenses disallowed in the
172 computation of taxable income under s. 265 of the Internal
173 Revenue Code or any other law, excluding 60 percent of any
174 amounts included in alternative minimum taxable income, as

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175 defined in s. 55(b)(2) of the Internal Revenue Code, if the
176 taxpayer pays tax under s. 220.11(3).

177 3. In the case of a regulated investment company or real
178 estate investment trust, an amount equal to the excess of the
179 net long-term capital gain for the taxable year over the amount
180 of the capital gain dividends attributable to the taxable year.

181 4. That portion of the wages or salaries paid or incurred
182 for the taxable year which is equal to the amount of the credit
183 allowable for the taxable year under s. 220.181. This
184 subparagraph shall expire on the date specified in s. 290.016
185 for the expiration of the Florida Enterprise Zone Act.

186 5. That portion of the ad valorem school taxes paid or
187 incurred for the taxable year which is equal to the amount of
188 the credit allowable for the taxable year under s. 220.182. This
189 subparagraph shall expire on the date specified in s. 290.016
190 for the expiration of the Florida Enterprise Zone Act.

191 6. The amount of emergency excise tax paid or accrued as a
192 liability to this state under chapter 221 which tax is
193 deductible from gross income in the computation of taxable
194 income for the taxable year.

195 7. That portion of assessments to fund a guaranty
196 association incurred for the taxable year which is equal to the
197 amount of the credit allowable for the taxable year.

198 8. In the case of a nonprofit corporation which holds a
199 pari-mutuel permit and which is exempt from federal income tax
200 as a farmers' cooperative, an amount equal to the excess of the
201 gross income attributable to the pari-mutuel operations over the
202 attributable expenses for the taxable year.

203 9. The amount taken as a credit for the taxable year under

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204 s. 220.1895.

205 10. Up to nine percent of the eligible basis of any
206 designated project which is equal to the credit allowable for
207 the taxable year under s. 220.185.

208 11. The amount taken as a credit for the taxable year under
209 s. 220.187.

210 12. The amount taken as a credit for the taxable year under
211 s. 220.192.

212 13. The amount taken as a credit for the taxable year under
213 s. 220.193.

214 14. Any portion of a qualified investment, as defined in s.
215 288.9913, which is claimed as a deduction by the taxpayer and
216 taken as a credit against income tax pursuant to s. 288.9916.

217 15. The amount taken as a credit for the taxable year under
218 s. 220.194.

219 (b) *Subtractions.*—

220 1. There shall be subtracted from such taxable income:

221 a. The net operating loss deduction allowable for federal
222 income tax purposes under s. 172 of the Internal Revenue Code
223 for the taxable year, except that any net operating loss taken
224 as a credit to corporate income taxes owed or that is
225 transferred, pursuant to s. 220.194(3)(b), may not be deducted
226 by the seller,

227 b. The net capital loss allowable for federal income tax
228 purposes under s. 1212 of the Internal Revenue Code for the
229 taxable year,

230 c. The excess charitable contribution deduction allowable
231 for federal income tax purposes under s. 170(d)(2) of the
232 Internal Revenue Code for the taxable year, and

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233 d. The excess contributions deductions allowable for
234 federal income tax purposes under s. 404 of the Internal Revenue
235 Code for the taxable year.

236
237 However, a net operating loss and a capital loss shall never be
238 carried back as a deduction to a prior taxable year, but all
239 deductions attributable to such losses shall be deemed net
240 operating loss carryovers and capital loss carryovers,
241 respectively, and treated in the same manner, to the same
242 extent, and for the same time periods as are prescribed for such
243 carryovers in ss. 172 and 1212, respectively, of the Internal
244 Revenue Code.

245 2. There shall be subtracted from such taxable income any
246 amount to the extent included therein the following:

247 a. Dividends treated as received from sources without the
248 United States, as determined under s. 862 of the Internal
249 Revenue Code.

250 b. All amounts included in taxable income under s. 78 or s.
251 951 of the Internal Revenue Code.

252
253 However, as to any amount subtracted under this subparagraph,
254 there shall be added to such taxable income all expenses
255 deducted on the taxpayer's return for the taxable year which are
256 attributable, directly or indirectly, to such subtracted amount.
257 Further, no amount shall be subtracted with respect to dividends
258 paid or deemed paid by a Domestic International Sales
259 Corporation.

260 3. In computing "adjusted federal income" for taxable years
261 beginning after December 31, 1976, there shall be allowed as a

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262 deduction the amount of wages and salaries paid or incurred
263 within this state for the taxable year for which no deduction is
264 allowed pursuant to s. 280C(a) of the Internal Revenue Code
265 (relating to credit for employment of certain new employees).

266 4. There shall be subtracted from such taxable income any
267 amount of nonbusiness income included therein.

268 5. There shall be subtracted any amount of taxes of foreign
269 countries allowable as credits for taxable years beginning on or
270 after September 1, 1985, under s. 901 of the Internal Revenue
271 Code to any corporation which derived less than 20 percent of
272 its gross income or loss for its taxable year ended in 1984 from
273 sources within the United States, as described in s.

274 861(a)(2)(A) of the Internal Revenue Code, not including credits
275 allowed under ss. 902 and 960 of the Internal Revenue Code,
276 withholding taxes on dividends within the meaning of sub-
277 subparagraph 2.a., and withholding taxes on royalties, interest,
278 technical service fees, and capital gains.

279 6. Notwithstanding any other provision of this code, except
280 with respect to amounts subtracted pursuant to subparagraphs 1.
281 and 3., any increment of any apportionment factor which is
282 directly related to an increment of gross receipts or income
283 which is deducted, subtracted, or otherwise excluded in
284 determining adjusted federal income shall be excluded from both
285 the numerator and denominator of such apportionment factor.
286 Further, all valuations made for apportionment factor purposes
287 shall be made on a basis consistent with the taxpayer's method
288 of accounting for federal income tax purposes.

289 Section 5. Subsection (5) is added to section 220.16,
290 Florida Statutes, to read:

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291 220.16 Allocation of nonbusiness income.—Nonbusiness income
292 shall be allocated as follows:

293 (5) The amount of payments received in exchange for
294 transferring a net operating loss as authorized by s. 220.194 is
295 allocable to this state.

296 Section 6. Section 220.194, Florida Statutes, is created to
297 read:

298 220.194 Corporate income tax credits for commercial
299 spaceflight projects in Florida's commercial launch zone.—

300 (1) INTENT.—The intent of this section is to create
301 incentives to attract commercial launch, payload, research and
302 development, and other commercial space business to this state.

303 (2) DEFINITIONS.—As used in this section, the term:

304 (a) "Certified commercial spaceflight business" means a
305 commercial spaceflight business that has been certified by the
306 office as meeting all of the requirements to obtain at least one
307 of the approved tax credits available under this section,
308 including any approval to transfer a credit.

309 (b) "Commercial launch zone" means an area within spaceport
310 territory in this state.

311 (c) "Commercial spaceflight business" means a business
312 that:

313 1. Is registered with the Secretary of State to do business
314 in this state; and

315 2. Is currently undertaking one or more of the following
316 activities in this state which are intended to result in a
317 launch from a commercial launch zone: designing, manufacturing,
318 testing, or assembling a launch vehicle, reentry vehicle,
319 satellite, station, or components thereof; providing a launch

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320 service or reentry service; or providing the payload for a
321 launch vehicle or reentry vehicle.

322
323 A commercial spaceflight business may participate in more than
324 one spaceflight project at a time and may conduct work on a
325 commercial, governmental, or United States defense-related
326 project and remain certified or qualified for certification.

327 (d) "Commercial spaceflight project" means activities
328 performed in this state by a commercial spaceflight business
329 which qualify it to be certified, including activity related to
330 the launch of a launch vehicle, reentry vehicle, satellite, or
331 space station from a commercial launch zone in this state, or
332 its return to a spaceport commercial launch zone in this state.
333 The term includes a launch service, reentry service, or any
334 process that validates hardware or components to meet design and
335 workmanship criteria for space launch or reentry vehicles per
336 United States Department of Defense and National Aeronautics and
337 Space Administration guidelines.

338 (e) "Launch" means to place or attempt to place a launch
339 vehicle and any payload from a commercial launch zone in this
340 state into a suborbital trajectory, into Earth orbit in outer
341 space, or otherwise into outer space.

342 (f) "Launch service" means an activity in this state
343 related to the preparation of a launch vehicle and any payload
344 for launch and the conduct of a launch.

345 (g) "New employee" means a Florida resident who begins
346 full-time employment in Florida with a commercial space flight
347 business after January 1, 2011, and who has not been previously
348 employed on a full-time basis in this state within the preceding

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349 12 months on a commercial space flight project, by a commercial
350 space flight business seeking certification, or a successor
351 business or affiliate. The term does not include a person who is
352 a partner, majority stockholder, or owner of the business or a
353 person who is employed in a temporary construction job or
354 principally involved with the construction of real property.

355 (h) "New job" means the full-time employment of a new
356 employee, as defined in paragraph (g), by a commercial space
357 flight business in activities occurring in this state directly
358 associated with a commercial space flight project. The term
359 shall be defined in a manner that is consistent with terms used
360 by the Agency for Workforce Innovation and the United States
361 Department of Labor for purposes of unemployment compensation
362 tax administration and employment estimation. To meet the
363 requirement for certification specified in subsection (5), a new
364 job must:

365 1. Have paid new employees at least 115 percent of the
366 statewide or countywide average annual private-sector wage for
367 the 3 taxable years immediately preceding filing an application
368 to be certified to take a credit under this section.

369 2. Have required that the new employee perform duties on a
370 regular full-time basis in this state for an average of at least
371 36 hours per week each month for the 3 taxable years immediately
372 preceding filing an application to be certified to take a credit
373 under this section.

374 3. Not be held by a person who has previously been included
375 as a new employee on any application for any credit authorized
376 by this section.

377 (i) "Created new jobs" means the number by which new jobs,

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378 as defined in paragraph (h), on the application for
379 certification is greater than the total number of full-time jobs
380 located in this state as stated on an application for approval
381 to earn credits.

382 (j) "Office" means the Office of Tourism, Trade, and
383 Economic Development within the Executive Office of the
384 Governor.

385 (k) "Outer space" means an altitude of at least 50 miles
386 above the Earth's surface.

387 (l) "Payload" means an object built or assembled in this
388 state which a commercial spaceflight business has prepared to
389 place in outer space by means of a launch vehicle or reentry
390 vehicle, including components, built or assembled in this state,
391 of the vehicle specifically designed or adapted for the object
392 and built or assembled in this state.

393 (m) "Reentry" means to return or attempt to return a
394 reentry vehicle and any payload from Earth orbit, or from outer
395 space, to a commercial launch zone in this state.

396 (n) "Reentry service" means an activity conducted in this
397 state related to the preparation of a reentry vehicle and any
398 payload for reentry and conduct of the reentry.

399 (o) "Spaceport territory" has the same meaning as provided
400 in s. 331.303.

401 (p) "Space vehicle" means any spacecraft, satellite, upper-
402 stage, or launch vehicle system.

403 (q) "Successful launch" means a launch from a commercial
404 launch zone in this state which successfully places a launch
405 vehicle or reentry vehicle and payload from Earth into a
406 suborbital trajectory, into Earth orbit in outer space, or

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407 otherwise into outer space.

408 (r) "Taxpayer" has the same meaning as defined in s.
409 220.03.

410 (s) "Total tax credits that may be approved for any state
411 fiscal year" means, for any state fiscal year, the sum of the
412 tax credits approved for taxpayers whose taxable year begins on
413 or after January 1 of the calendar year preceding the start of
414 the applicable state fiscal.

415 (3) TAX CREDITS.—The following credits, having been
416 approved and certified pursuant to subsection (5), may be taken
417 on a final return for a taxable year beginning on or after
418 January 1, 2014:

419 (a) Nontransferable corporate income tax credit.—A
420 certified commercial spaceflight business may take an approved
421 tax credit not to exceed 50 percent of the business's tax
422 liability under this chapter for the taxable year in which the
423 credit is taken. The maximum tax credit amount that may be
424 approved for a business for a taxable year is \$1 million. The
425 total nontransferable tax credits that may be approved for any
426 state fiscal year pursuant to this paragraph year may not exceed
427 \$10 million.

428 (b) Transferable net operating loss tax credit.—

429 1. A certified commercial spaceflight business may be
430 approved to transfer, in whole or in part, its Florida net
431 operating loss that would otherwise be available to be taken on
432 a return filed pursuant to this chapter. The maximum tax credit
433 amount that may be approved for transfer by a business for a
434 taxable year is \$2.5 million. The total transferable tax credits
435 that may be approved for any state fiscal year pursuant to this

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436 paragraph may not exceed \$25 million. However, any outstanding
437 credit that is carried forward by a transferee may not be
438 considered in calculating this annual limit. To transfer the
439 transferable credit, the business must:

440 a. Have been approved to transfer a transferrable tax
441 credit for the taxable year in which it is transferred;

442 b. Have incurred a qualifying net operating loss on
443 activity in this state directly associated with one or more
444 commercial space flight projects in any of its 3 previous
445 taxable years;

446 c. Not be 50 percent or more owned or controlled, directly
447 or indirectly, by another corporation that has demonstrated
448 positive net income in any of the 3 previous taxable years of
449 ongoing operations; and

450 d. Not be part of a consolidated group of affiliated
451 corporations, as filed for federal income tax purposes, which in
452 the aggregate in any of the 3 previous taxable years
453 demonstrated positive net income.

454 2. The amount that may be claimed and transferred by a
455 business is equal to:

456 a. One hundred percent of the net operating loss that would
457 otherwise be available to be claimed on a return filed pursuant
458 to this chapter during its first full year of operations in this
459 state.

460 b. One hundred percent of the net operating loss that would
461 otherwise be available to be claimed on a return filed pursuant
462 to this chapter during its second full year of operations in
463 this state.

464 c. One hundred percent of the net operating loss that would

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465 otherwise be available to be claimed on a return filed pursuant
466 to this chapter during its third full year of operations in this
467 state.

468 (c) Machinery and equipment credit.—A certified commercial
469 spaceflight business may take an approved tax credit if it
470 invests at least \$500,000 in machinery and equipment over a
471 period not to exceed 3 taxable years if such machinery has been
472 purchased in this state and exclusively used in this state for
473 one or more commercial spaceflight projects in this state.

474 1. An investment in machinery and equipment may be claimed
475 only one time by a commercial spaceflight business for the
476 corporate income tax credit authorized by this paragraph.
477 However, the purchase of the machinery and equipment may also be
478 exempt from the sales and use tax under the exemption in s.
479 212.08(5)(b).

480 2. The amount of the credit is equal to 7.5 percent of the
481 sales price of the machinery and equipment.

482 3. The business may take a credit for no more than 50
483 percent of its corporate income tax liability in the taxable
484 year in which the credit is taken, up to a maximum of \$5
485 million. If credit granted under this paragraph is not fully
486 used in any one taxable year because of insufficient tax
487 liability, the unused amount may be carried forward for up to 5
488 taxable years.

489 4. The total credits that may be approved for any state
490 fiscal year pursuant to this paragraph may not exceed \$20
491 million.

492 (4) ADMINISTRATION.—

493 (a) Unless transferred pursuant to this section, credits

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494 awarded under this section may be granted only against the
495 corporate income tax liability generated by or arising out of a
496 commercial spaceflight project in this state, as documented in
497 the certified commercial spaceflight business's annual audit
498 prepared by a certified public accountant licensed to do
499 business in this state and as verified by the office.

500 (b) A certified spaceflight business may not file a
501 consolidated return for the purposes of claiming the tax
502 incentives described in paragraphs (3) (a) and (c).

503 (c) It is the responsibility of the certified commercial
504 spaceflight business or transferee to demonstrate to the
505 satisfaction of the office and the department that it is
506 eligible to take the credits approved under this section.

507 (5) APPLICATION AND CERTIFICATION.—

508 (a) To claim a tax credit pursuant to this section, a
509 commercial spaceflight business must first submit an application
510 to the office for approval to earn credits. The application must
511 be filed by the date established by the office. The application
512 must include such information as is required by the office. In
513 addition to any other information that the office may require,
514 any corporation wishing to be approved for a tax credit
515 available under this section must provide a complete description
516 of the activity in this state that demonstrates to the office
517 the applicant's likelihood to be certified to take or transfer a
518 credit. The applicant must also provide a description of the
519 total amount and type of credits for which approval is sought.
520 The office is authorized to consult with Space Florida regarding
521 the qualifications of any applicant. The applicant shall provide
522 an affidavit certifying that all information contained in the

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523 application is true and correct. Approval of the credits under
524 this section shall otherwise be accomplished on a first-come,
525 first-served basis, based upon the date complete applications
526 are received by the office. A taxpayer may not submit more than
527 one complete application during a particular state fiscal year.
528 The office may not accept an incomplete placeholder application,
529 and such an application will not secure a place in the first-
530 come, first-served application line. The office has 60 days
531 after the receipt of an application within which to issue a
532 notice of intent to deny or approve an application for credits.
533 If a business does not receive approval for a tax credit due to
534 the exhaustion of the annual tax credit authorizations, the
535 business may reapply in the following year for those credits
536 that then may be available to the business and the business
537 shall have priority over other applicants for an approved
538 credit. The office shall make a determination on the eligibility
539 of an applicant for the credits sought and shall approve the
540 credits that the applicant may later be certified to take. The
541 office is responsible for ensuring that the corporate income tax
542 credits approved in each fiscal year to all applicants do not
543 exceed the limits provided for in this section. The office is
544 authorized to adopt the guidelines, application materials, and
545 rules necessary to administer this section.

546 (b) At the time a business seeks to be certified to take,
547 and thereafter to transfer, if authorized, an approved credit,
548 it must submit an application to the office in order to be
549 certified to take such credit along with a \$250 nonrefundable
550 fee. The application must include:

551 1. The name and physical Florida address of the taxpayer.

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552 2. Documentation demonstrating to the satisfaction of the
553 office that:

554 a. The taxpayer is a commercial spaceflight business.

555 b. The business has engaged in a qualifying commercial
556 spaceflight project or projects before taking a credit under
557 this section.

558 3. In addition to any requirement specific to a credit,
559 documentation that the business has complied with all of the
560 following:

561 a. Created 35 new jobs, as defined in this section, located
562 in this state and directly associated with an individual
563 commercial spaceflight project, or projects during its
564 immediately preceding 3 taxable years;

565 b. Invested a total of at least \$15 million in this state
566 on a commercial spaceflight project or projects during its
567 immediately preceding 3 taxable years; and

568 c. Participated in a commercial spaceflight project that
569 resulted in a successful launch from a commercial launch zone in
570 this state during its immediately preceding 3 taxable years.

571 4. The total amount and types of credits sought.

572 5. An acknowledgment that a transfer of a tax credit shall
573 be accomplished pursuant to subsection (6).

574 6. A copy of an audit or audits of the preceding 3 taxable
575 years, prepared by a certified public accountant licensed to
576 practice in this state, which identifies that portion of the
577 business's activities in this state related to commercial
578 spaceflight projects in this state.

579 7. An acknowledgement that the business must file an annual
580 report on the project's progress with the office.

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581 8. Any other information necessary to demonstrate that the
582 applicant meets the job creation, investment, and other
583 requirements of this section.

584 (c) Within 60 days after receipt of the application, the
585 office shall evaluate the application for certification and
586 recommend the business for certification or denial. The
587 executive director of the office must approve or deny the
588 application within 30 days after receiving the recommendation
589 from the office. The office must provide a letter of
590 certification to the applicant, if approved, consistent with any
591 restrictions on the credit being certified. If the office denies
592 any part of the requested credit, the office must inform the
593 applicant of the grounds for the denial. A copy of the
594 certification shall be submitted to the department within 10
595 days after the executive director's decision.

596 (d) Each business may be approved for only one credit for
597 any state fiscal year and may not claim any credit more than one
598 time.

599 (6) TRANSFERABILITY OF CREDIT.—

600 (a) For certified credits transferrable pursuant to this
601 section, any corporation allowed to transfer a credit, in whole
602 or in part, to any taxpayer by written agreement may do so
603 without transferring any ownership interest in the property
604 generating the credit or any interest in the entity owning such
605 property. The transferee is entitled to apply the credits
606 against the tax with the same effect as if the transferee had
607 incurred the eligible costs.

608 (b) To perfect the transfer, the transferor shall provide
609 the department with a written transfer statement that has been

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610 approved by the office notifying the department of the
611 transferor's intent to transfer the tax credits to the
612 transferee; the date that the transfer is effective; the
613 transferee's name, address, and federal taxpayer identification
614 number; the tax period; and the amount of tax credits to be
615 transferred. The department shall, upon receipt of a transfer
616 statement conforming to the requirements of this section,
617 provide the transferee and the office with a certificate
618 reflecting the tax credit amounts transferred. A copy of the
619 certificate must be attached to each tax return for which the
620 transferee seeks to apply such tax credits.

621 (7) ADMINISTRATION; AUDIT AUTHORITY; RECAPTURE OF CREDITS.-

622 (a) In addition to its existing audit and investigative
623 authority, the department may perform any additional financial
624 and technical audits and investigations, including examining the
625 accounts, books, and financial records of the tax credit
626 applicant, which are necessary to verify the accuracy of the
627 return and to ensure compliance with this section. The office
628 and Space Florida shall provide technical assistance when
629 requested by the department on any technical audits or
630 examinations performed under this subsection.

631 (b) It is grounds for forfeiture of previously claimed tax
632 credits if the department determines, as a result of an audit or
633 examination, or from information received from the office, that
634 a certified commercial spaceflight business, or in the case of
635 transferred tax credits, a taxpayer received tax credits under
636 this section to which the certified commercial spaceflight
637 business or taxpayer was not entitled. The certified commercial
638 spaceflight business or transferee is responsible for filing an

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639 amended return reflecting the disallowed credits and paying any
640 tax due as a result of the amendment.

641 (c) If the certified commercial spaceflight business's
642 Florida corporate income tax return is adjusted by amendment,
643 recomputation, or redetermination such that any item entering
644 into the computation of a claimed credit has been changed, the
645 taxpayer must notify the department by filing an amended return.
646 The amount of any credit award not supported by the amended
647 return shall be deemed a deficiency to be remitted with the
648 amended return and is otherwise subject to s. 220.23. The
649 certified commercial spaceflight business is also liable for a
650 penalty equal to the amount of the credit claimed or
651 transferred, reduced in proportion to the amount of the net
652 operating loss certified for transfer over the amount of the
653 certified net operating loss disallowed. The applicant and its
654 successors shall maintain all records necessary to support the
655 reported net operating loss.

656 (d) The office may revoke or modify any certification
657 granting eligibility for tax credits under this section if it is
658 discovered that the certified commercial spaceflight business
659 made a false statement, or representation, in any application,
660 record, report, plan, or other document filed in an attempt to
661 receive tax credits under this section. The office shall
662 immediately notify the department of any revoked or modified
663 orders affecting previously granted tax credits. Additionally,
664 the certified commercial spaceflight business must notify the
665 department of any change in its tax credit claimed.

666 (e) The certified commercial spaceflight business must file
667 with the department an amended return or other report required

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668 by the department by rule and must pay any required tax and
669 interest within 60 days after the certified commercial
670 spaceflight business receives notification from the office that
671 previously approved tax credits have been revoked or modified.
672 If the revocation or modification order is contested, the
673 certified commercial spaceflight business must file an amended
674 return or other report as provided in this paragraph within 60
675 days after a final order is issued following proceedings.

676 (f) The department may assess an additional tax, penalty,
677 or interest pursuant to s. 95.091.

678 (8) RULES.—

679 (a) The office, in consultation with Space Florida, shall
680 adopt rules to administer this section, including rules relating
681 to the certification forms for commercial spaceflight businesses
682 to complete, and the application and certification procedures,
683 guidelines, and requirements necessary to administer this
684 section.

685 (b) The department may adopt rules to administer this
686 section, including rules relating to:

687 1. The forms required to claim a tax credit under this
688 section, the requirements and basis for establishing an
689 entitlement to a credit, and the examination and audit
690 procedures required to administer this section.

691 2. The implementation and administration of the provisions
692 allowing a transfer of a net operating loss as a tax credit,
693 including rules prescribing forms, reporting requirements, and
694 specific procedures, guidelines, and requirements necessary to
695 perform the transfer.

696 3. The minimum portion of the credit that is available for

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697 transfer.

698 (9) ANNUAL REPORT.-The office, in cooperation with Space
699 Florida and the department, shall submit an annual report of the
700 commercial launch zone incentive program's activities to the
701 Governor, the President of the Senate, and the Speaker of the
702 House of Representatives by November 30 of each year, beginning
703 in 2014.

704 Section 7. This act shall take effect upon becoming a law,
705 except that the tax credits authorized by this act may not be
706 applied to returns filed for any tax period before January 1,
707 2014.